



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Whitted et al.

Application No: 10/750,330

Filed: December 30, 2003

Title: Modular Data Center

Attorney Docket No. GOOGP015

Examiner: Jiang, Chen Wen

Art Unit: 3744

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the US Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on May 29, 2007.

Signed: 

Name: Jung-hua Kuo

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicant requests review of the final rejection mailed on November 27, 2006 in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheets (4 pages).

Note: No more than five (5) pages may be provided.

I am the:

- ☒ attorney or agent of record. Registration Number 41,918.
- ☐ attorney or agent acting under 37 CFR 1.34. Registration Number \_\_\_\_\_.
- ☒ If the required fees are missing or any additional fees are required during the pendency of the subject application, please charge such fees or credit any overpayment to Deposit Account No. 50-1217 (Order No. **GOOGP015**). A copy of this sheet is enclosed.

Respectfully submitted,



May 29, 2007

Date

Jung-hua Kuo  
Reg. No. 41,918  
P.O. Box 3275  
Los Altos, CA 94024  
Telephone: (650) 988-8070  
Facsimile: (650) 988-8090



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Whitted et al.

Application No: 10/750,330

Filed: December 30, 2003

Title: Modular Data Center

Attorney Docket No. GOOGP015

Examiner: Jiang, Chen Wen

Art Unit: 3744

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the US Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on May 29, 2007.

Signed: 

Name: Jung-hua Kuo

Reasons For Pre-Appeal Brief Request For Review

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The reasons for the Pre-Appeal Brief Request for Review are set forth below.

**In rejecting claims 1-3, 5-17, 19-29 and 31-41 under 35 U.S.C. §103(a), the Examiner did not establish that Bash et al. in view of Spinazzola and further in view of Hergatt discloses, teaches, or suggests all elements of the claimed invention so as to render the claims unpatentable**

Claims 1-3, 5-17, 19-29 and 31-41 stand rejected under 35 U.S.C. §103(a) as obvious over Bash et al. in view of Spinazzola and further in view of Hergatt.

Independent claim 1 generally recites that the data center includes a *cooling module that includes a shipping container* configured for transport via a transport infrastructure that is *separate from the computing systems* of the at least one modular computing module.

Independent claims 13 and 29 recite similar elements.

In contrast, Bash discloses a room 10 that houses both the racks 12 containing the computing systems and the heat exchanger units (HEU 22) or evaporator units distributed in parallel. Bash specifically configured the HEUs 22 to be supported from the ceiling 16 of the room 10. And while Bash mentions (at col. 6, lines 23-26) “that the room 10 may comprise

more than one room and that the cooling system 20 may be configured to cool a plurality of rooms,” nowhere does Bash disclose or suggest having a room *separate* from the racks 12 to house the cooling system, as generally recited in independent claims 1, 13, and 29.

Spinazzola discloses an air cooling apparatus that supplies cooled air to an equipment assembly on a floor via an air passageway below a floor and then returns the air to the air cooling apparatus via a plenum. The temperature differential between the air in the air passageway below the floor to the air in the plenum is 45°F so as to reduce the power necessary for operating a fan. As is evident, Spinazzola’s air cooling apparatus is attached below the floor that supports the equipment the cooling apparatus is to cool. Similar to Bash, Spinazzola also fails to disclose an air cooling unit that is housed *separately* within a shipping container configured for transport via a transport infrastructure.

Hergatt discloses a portable air conditioning unit on wheels for recreational vehicles that has a head adaptor assembly that is vertically adjustable for alignment with a window in the recreational vehicle. Similar to Bash and Spinazzola, Hergatt also fails to disclose an air cooling unit that is housed separately within a shipping container configured for transport via a transport infrastructure. Rather, Hergatt’s portable air conditioning unit on wheels is designed to be transported within the recreational vehicle that the A/C unit is designed to cool. Spinazzola neither illustrates nor discloses an A/C unit that is to be separately housed.

None of Bash, Spinazzola or Hergatt, either alone or in combination, discloses a cooling module that includes a shipping container configured for transport via a transport infrastructure separate from the computing systems.

Withdraw of rejection of claims 1-3, 5-17, 19-29 and 31-41 under 35 U.S.C. §103(a) is respectfully requested.

### **CONCLUSION**

Because the Examiner’s rejections of claims 1-3, 5-17, 19-29 and 31-41 include legal deficiencies with regard to 35 U.S.C. §103(a) and the MPEP, Applicants are entitled to a pre-appeal brief review of the final rejection. And based on the foregoing arguments, Applicants request that the rejection of these claims be withdrawn and the pending claims be allowed.

In the unlikely event that the transmittal letter accompanying this document is separated from this document and the Patent Office determines that an Extension of Time under 37 CFR 1.136 and/or any other relief is required, Applicant hereby petitions for any required relief including Extensions of Time and/or any other relief and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. **50-1217** (Order No. **GOOGP015**).

Respectfully submitted,



May 29, 2007

Date

---

Jung-hua Kuo  
Reg. No. 41,918  
P.O. Box 3275  
Los Altos, CA 94024  
Telephone: (650) 988-8070  
Facsimile: (650) 988-8090